



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

February 2, 2010

Mr. William Thibeault
New Ventures Associates, LLC
85-87 Boston Street
Everett, Massachusetts 02149
Richard A. Nylen Jr, Attorney at Law
Lynch, DeSimone & Nylen, LLP
12 Post Office Square
Boston, MA 02109

Re: NEWBURYPORT – Solid Waste
Crow Lane Landfill
FMF # 39545
**Paragraph 27 Notice - Pretreatment
Performance Standard**

Dear Mr. Thibeault and Mr. Nylen:

Representatives of the Massachusetts Department of Environmental Protection ("MassDEP") determined that, on Monday, February 1, 2010 at 9:30 AM and 1:50 PM, the landfill gas pretreatment system was not meeting the 95% performance standard for the removal of hydrogen sulfide and was not meeting the maximum allowable outlet concentration standard of 1.01 lbs/hr H₂S from the pretreatment system required by Appendix B of the Settlement Agreement and Final Judgment in *Commonwealth v. New Ventures Associates, LLC*, Suffolk Superior Court C.A. 06-0790 C, as amended by Orders of the court on May 27, 2009 and October 7, 2009 (the "Final Judgment").

Paragraph 27 of the Final Judgment states, in part:

The Department and its contractors shall also, within seventy-two (72) hours of notice by the Department, have the right to access the Site at any time to take actions necessary to: (i) assure that the landfill gas system, the enclosed flare, and the gas collection system, is operating in full compliance with the performance standards in Appendix B; (ii) patch, repair, or extrusion weld any FML rips, tears, seam openings or other damage; (iii) cover, patch or otherwise mitigate any breakouts of hydrogen sulfide or other landfill gases from the Landfill surface; or (iv) place cover over Active or Inactive Areas of the Landfill in order to assure compliance with the requirements of Sections B and C of Appendix C, Landfill Cover Protocol.

New Ventures must return to full compliance with the requirements of the Final Judgment and this Notice. Pursuant to paragraph 6(a) of the Corrective Action Standby Trust Agreement, MassDEP reserves the right to draw funds against the Trust Fund Property for any actions conducted by MassDEP pursuant to paragraph 27 of the Final Judgment upon notification to the Trustee as required by the Trust Agreement and 310 C.M.R. 19.051.

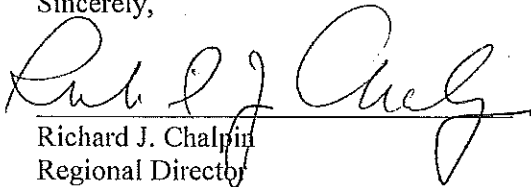
New Ventures must take all actions necessary to return to compliance with the Final Judgment including, without limitation, the performance standards for the operation of the pretreatment system specified in the Final Judgment and thereafter must continuously meets the Performance Standards of the Final Judgment.

All of the response actions required above must be supervised, overseen and directed by the Engineer of Record as required by the Final Judgment.

This notice is provided by email pursuant to Section 26 of the Final Judgment and by certified mail.

Feel free to contact me by telephone at (978) 694-3345, if you have any questions regarding this notice.

Sincerely,



Richard J. Chalpin
Regional Director

CERTIFIED MAIL: _____

CC: Mayor Donna Holaday 60 Pleasant Street, Newburyport, MA 01950

Health Department, 60 Pleasant Street, Newburyport, MA 01950

Michael Dingle, MassDEP/OGC-Boston (by email)

Matthew Ireland, Office of the Attorney General, Boston, MA (by email)

Michael Quatromoni, SITEC Environmental, Inc., 769 Plain Street, Unit C, Marshfield, MA
02050